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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,407	01/06/2000	TIMOTHY W. DYGERT	1364.1003CIP	1653

21171 7590 05/12/2003

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EXAMINER

VINCENT, DAVID ROBERT

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/478,407	DYGERT, TIMOTHY W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David R Vincent	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5-8,10-12 and 14-17 is/are rejected.
- 7) Claim(s) 4,9,13 and 18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

***Claim Objections***

1. Claims 16-18 are objected to because of the following informalities: they are not numbered properly. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itakura (US 6,493,832), in view of Haskell (US 5,668,841).

Itakura discloses multiple streams (e.g., col. 4, lines 35-56; col. 6, lines 1-6), detect one of the bit rates used in encoding (detecting PCR signals, col. 1, lines 48-50; 502, Fig. 5), stored signals (col. 2, lines 20-24), outputting packet isochronous (outputting ATM data after removing jitter, col. 2, lines 30-col. 4, lines 20-30), as specified in claims 1, 5, 10, 14; outputting bit streams within one bit per second of the

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incoming streams and litter less than 2 ms (e.g., Fig. 1, 6; col. 4, lines 20-30), as specified in claims 2-3, 12, 16; clocks (clocks and counters, Figs. 2-5, and respective disclosure), buffers 35, Fig. 3; controlling the timing of the output (Fig. 5-7 and respective disclosure). However, Itakura fails to particularly call for the PCR signals to be equivalent to detecting the encoded signal rates.

As shown in Fig. Figs. 2, 4-5, Haskell teaches detecting the encoded rates and PCR signals being equivalent to detecting the encoded signal rates (Col. 1, lines 25-31; col. 3, lines 52-56; col. 5, lines 10-19; col. 5, line 61-col. 6, line 9).

The term isochronous means equal (iso) time (chronous) and since the references teach removing jitter and using ATM the output signals are isochronous.

It is obvious to detect the rate of the encoded signal using the PCR because it is taught by Haskell to do so. Combining the references merely amounts to making better use of well known facts about MPEG encoding and making it more clear what PCR is used for. It is obvious to detect rates because the rate of the encoding can differ from the rate of the transmission.

***Claim Rejections - 35 USC § 103***

Claims 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Itakura and Haskell, as set forth above, and further in view of Allen (US 5,892,535).

The combination of Itakura and Haskell fails to particularly call for a real time pump, as specified in claim 5 and requesting specific recordings, as specified in claim 10.

Allen teaches PCR (2222, Fig. 8), PCR defining the bit rate of the encoded signal (col. 6, lines 6-9), reducing jitter col. 49, buffers (e.g., 614, Fig. 6; 702, 706, 710, Fig. 7A; 1008, Fig. 10), and a real time pump (cols. 11-12), as specified in claim 5; requesting specific recordings (using Video on Demand VOD, Fig. 5, 14-16, 34; col. 15), as specified in claim 10.

It would have been obvious to combine the references in order to use a real time pump and request specific data because Itakura and Haskell disclose transmitting video data over an ATM network and ATM networks can be used in a VOD environment.

3. Claim 4, 9, 13, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the references of record alone or in combination disclose or suggest the combination of limitations specified in the claims 4, 9, 13, 18

including details of the counters, truncated periods, and dithering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 703 305 4957. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on 703 305 4703. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9314 for regular communications and 703 872 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 306 0377.

*DRV 5/6/03*  
David R Vincent  
Primary Examiner  
Art Unit 2661

May 6, 2003